

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. CR-H-04-389
	)	(Werlein, J.)
MARK E. KOENIG,	)	
	)	
Defendant.	)	
_____	)	

Revised Exhibit A to Cooperation Agreement

The following factual statement by defendant Mark E. Koenig is submitted to provide a factual basis for his plea of guilty to one count of aiding and abetting securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff and 18 U.S.C. § 2, as charged in the above-captioned

Information:

1. Enron Corporation ("Enron") was an Oregon corporation with its headquarters in Houston, Texas. Among other businesses, Enron was engaged in the purchase and sale of natural gas, construction and ownership of pipelines and power facilities, telecommunications services, and trading in contracts to buy and sell various commodities. Enron stock was publicly traded on the New York Stock Exchange

("NYSE").

2. I was employed at Enron from February 1985 to May 2002. In 1992, I began working in Enron's Investor Relations department. In 1998, I was promoted to Executive Vice-President and Director of Investor Relations. I held that position until I left Enron in May 2002. As Director of Investor Relations, I was primarily responsible for communicating with Enron's shareholders and securities analysts about Enron's performance and business activities.
3. By early 2001, I was aware that the presentation to the public of Enron's finances and business success by Enron senior management, including myself, intentionally concealed the true state of Enron. Enron's publicly reported financial results and filings with the Securities and Exchange Commission, including its public descriptions of itself and statements made by myself and members of senior management, did not truthfully present

Enron's financial position, results from operations, and cash flow of the company and omitted facts necessary to make the disclosures and statements that were made truthful and not misleading.

4. Statements made by myself and others relating to the performance of two of Enron's core businesses, Enron Broadband Services ("EBS") and Enron Energy Services ("EES"), were false and misleading. Certain of those false and misleading statements are outlined below:

- (a) In 2000 and 2001, EBS was promoted by Enron senior management as a major contributor to the value of Enron's stock. In support of Enron management's claims that EBS continued to be successful and a significant positive factor contributing to Enron's stock price, I misled analysts during two conference calls with securities analysts.

- (i) During a January 22, 2001, conference call with securities analysts discussing EBS's performance in the fourth quarter of 2000, an analyst asked how much of a contribution a partial "monetization" of the content services business made to EBS's fourth quarter 2000 revenues. When Enron CEO Jeffrey Skilling directed me to answer the question, I responded by stating that the monetization, which had been only generically disclosed in the earnings release, accounted for "a fairly small amount" of EBS's quarterly revenues. In fact, as I and other members of Enron management knew, the monetization alone accounted for \$53 million of EBS's fourth quarter 2000 revenues of \$63 million. I and other members of Enron management sought to minimize the importance of such transactions so that Enron senior management and others could continue to portray EBS as a growing and successful business unit, and thereby to support artificially the share price of Enron stock.

- (ii) During an April 17, 2001, conference call with securities analysts discussing EBS's performance in the first quarter of 2001, an analyst asked about the amount of a monetized portion of EBS's content services business during that quarter. When Skilling and EBS CEO Kenneth Rice directed me to answer the question, I responded by stating that the monetization accounted for "about a third" of EBS's quarterly revenue, and "a pretty small amount on a net basis." In fact, as I and other members of Enron management knew, this was false because the monetization alone accounted for \$58 million of EBS's first quarter 2001 revenues of \$83 million. I also compared this transaction with other monetizations Enron had done in other business units in past periods. I and other members of Enron management sought to minimize the importance of such transactions so that Enron senior management and others could continue to portray EBS as a growing and successful business unit, and thereby to support artificially the share price of Enron stock.

(b) In 2000 and 2001, EES was also promoted by Enron management as a growth business and a major contributor to the value of Enron's stock. Late in the first quarter of 2001, I learned that EES was confronting substantial losses and that to avoid revealing those losses to the investing public, Enron management moved portions of EES's business into another business unit, Enron Wholesale. This reorganization was falsely described by Enron management and in Enron's public filings with the SEC as done solely to increase

efficiency – which I and others knew was not true. In addition, we continued to describe EES as a success, intentionally omitting to disclose to the public any reference to EES's losses which had been concealed by the reorganization. In support of Enron management's claims that EES continued to be successful and a significant positive factor contributing to Enron's stock price, we misled analysts during a conference call with securities analysts.

(i) During a July 12, 2001, conference call with securities analysts discussing EES's performance in the second quarter of 2001, an analyst asked about EES's restated results for the prior year. Consistent with responses previously provided by Skilling and others and presented in Enron's public filings with the SEC, I responded by stating that the variance resulted from the reorganization of EES and Wholesale business segments. Enron's CEO Jeffrey Skilling further asserted that those moves were made simply "to get some more efficiency out of management of the overall risk management function" for the two units. I and others at Enron communicated that same message to analysts in additional communications about EES. In fact, as I and other members of Enron management knew, the reorganization of those units was done largely to conceal EES's substantial losses.